

LAW



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Firm Enjoys 3-For-3 Streak at State's High Court

Horvitz & Levy has taken the appellate role seriously.

By **ZANE HILL**, Staff Reporter

It's been a productive year for **Horvitz & Levy LLP**, the Burbank-based law firm that touts itself as the largest appellate boutique in the nation.

The firm, which does business within the state appellate court system and the 9th U.S. Circuit Court of Appeals, has grown to around 40 attorneys this year. And in July, the firm recorded three victories – by unanimous vote – at the California Supreme Court, a new feat for the practice.

"That was a nice alignment of the stars," said **Mitchell Tilner**, a partner at the firm who argued one of the cases. "It is unusual, and certainly, to get three unanimous opinions in a month is pretty unusual. That's 21 votes out of 21 going our way."

In one case – *Boemeester v. Carry* – the firm persuaded the Supreme Court that universities should not be required to allow live cross-examinations of victims of sexual assault and intimate-partner violence in disciplinary proceedings. Attorneys for that case included **Jeremy Rosen**, **Mark Kressel**, **Scott Dixler** and **Beth Jay**. In *Allied Premier Ins. v. United Financial Cas. Co.*, attorneys **Lisa Perrochet** and **Peter Batalden** got the Supreme Court to clarify an issue related to commercial insurance coverage.

And in *County of Santa Clara v. Superior Court*, attorneys Jay, Tilner and Batalden persuaded the court to reverse a prior decision that prevented hospital clients from seeking reimbursement for emergency services from public agencies. Tilner explained that the lower courts had decided the county, which runs a public health care service plan, was immune from lawsuits by hospital clients to cover their emergency treatment, which hospitals are obligated to perform regardless of the patient's financial situation.



Duo: Mitchell Tilner, left, and Jason Litt, Horvitz & Levy partners, in their Burbank office.

While an appellate boutique firm is relatively novel in the legal industry, Horvitz & Levy has run successfully with the niche since its formation. The firm filed 165 petitions for review in the California Supreme court between 2010 and 2021, of which 20 were granted. This 12% success rate is more than double the court's average grant rate of 4% to 6%. Since 2008, the firm has argued 40 cases before that court, prevailing fully in 70% of them and partially prevailing in 10%.

"I know for many years we've consistently had more cases in the California Supreme

Court than any other firm," said **Jason Litt**, a co-managing partner of the firm. "We always have several cases within the Supreme Court."

California's governing and business landscape fosters an environment for firms like Horvitz & Levy to thrive, Litt said. Its lawyers work within not just the state's appellate court system, but also within the 9th Circuit, which spans California, eight other states and two territories. While the Ninth Circuit is easily the largest of the nation's federal appellate networks, California's state system has a significantly higher caseload because federal

HORVITZ & LEVY

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HEADQUARTERS: Burbank

YEAR FOUNDED: 1990

BUSINESS: Appellate boutique law firm

MANAGEMENT COMMITTEE: Karen Bray, Jason Litt and Robert Wright

EMPLOYEES: 40

LOCATIONS: Two offices in Burbank and San Francisco

courts have more limited jurisdiction, Litt and Tilner said.

"In many jurisdictions, there just aren't enough appeals to warrant our kind of firm," Tilner added, citing Washington, D.C., as a comparable market. "There's a lot of appellate litigation in California, so the market, if you will, would accommodate a firm like ours."

And that works out for attorneys like Litt and Tilner, who said they enjoy the academic exercise of preparing appeals and researching the law more than they would enjoy being classic trial attorneys.

"It's not for everybody. Some lawyers would not like to do what we do. They like to be in court, on their feet, arguing before juries. That's the trial attorney's world," Tilner said. "Our world is more sedate, cerebral and academic because we're taking a record after the verdict is reached and trying to find appellate issues."

That's what got Litt back into law; he began his career as a civil rights attorney before pivoting to a web startup in the early internet days.

"The things I didn't like about practicing trial litigation is the contentiousness and the back-and-forth fights over discovery," he said. "What I did like about law was doing research and writing."